IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

Crl.Rev.Pet.No. 3686 of 2007()

CRA.584/2006 of ADDL. SESSIONS COURT (ADHOC), THRISSUR
CC.762/2002 of JUDL. MAGISTRATE OF FIRST CLASS COURT, CHAVAKKAD

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REVN. PETITIONER: APPELLANTS/ACCUSED:

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1. RENJISH @ VIKRAMAN, AGED 29 YEARS, S/O.KRISHNAN, ENGADY VEEDU, EASTERN SIDE OF THALIYAKKULAM, PALAYUR.

2. SHEKKEER, AGED 26 YEARS, S/O.MUHAMMEDALI, PUZHANAKARA ILLATH VEEDU, PALAYUR.

3. SATHEESH, AGED 27 YEARS, S/O.VELAYUDHAN, THIYYATH VEEDU, PALAYUR.

4. RATHEESHKUMAR, AGED 28 YEARS, S/O.BABU, KOOTTILINGAL VEEDU, PALAYUR DESOM.

BY ADV. SRI.C.A.CHACKO
SMT.C.M.CHARISMA
SRI.N.A.SHAFEEK

RESPONDENTS: RESPONDENT/COMPLAINANT:

THE STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 16/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl. R.P. No. 3686 OF 2007

Dated this the 16th day of October, 2007

O R D E R

The revision petitioners who are accused Nos.1 to 4 in C.C.No.762/02 on the file of JFCM, Chavakkad for offences punishable under sections 341, 323 and 324 IPC, challenge the conviction entered and the sentence passed concurrently against them by the courts below for the aforesaid offences. For the conviction under sections 341, 323 and 324 IPC, each of them was sentenced to simple imprisonment for one month, three months and six months respectively. The said conviction was confirmed in appeal. Hence, this revision.

2. The case of the prosecution can be summarised as follows:-

On 1.8.02 at about 12.30 p.m. the four accused persons in furtherance of their common intention wrongfully restrained PW1 while he was travelling on a bicycle and beat him with iron pipes and fisted him and thereby voluntarily caused injuries to him.

3. On the side of the prosecution 8 witnesses were examined as PWs 1 to 8 of whom PWs 1 to 3 are the occurrence

witnesses. The prosecution got marked 7 documents as Exts.P1 to P7 and two material objects as MOs 1 and 2.

4. The accused denied the incriminating circumstances put to them and maintained their innocence. They did not adduce any defence evidence.

5. The learned Magistrate after trial, as per judgment dated 31.7.06 found the revision petitioners guilty of the offences charged against them and imposed the sentences referred to above. The conviction and sentence were confirmed by the lower appellate court.

6. Eventhough the learned counsel for the revision petitioners assailed on various grounds the conviction recorded against them, in as much as the said conviction was entered after a careful evaluation of the oral and documentary evidence in the case, this court sitting in revision will be loathe to interfere with the said conviction which is accordingly confirmed.

7. What now survives for consideration is the question of adequacy or otherwise of the sentence imposed on the revision petitioners. A perusal of the evidence will show that it was the previous enimity between the parties which impelled the accused

to assault PW1 while he was riding his bicycle. It is also admitted that there is a case of attempt to commit murder of the accused pending against PW1. The courts below were also not live to the mandate under section 357(3) Cr.P.C. which was to be exercised liberally after the authoritative pronouncement by the Apex court in the decision reported in ***Hari Krishnan and State of Haryana Vs. Sukhbir Singh and others*** [AIR 1988 SC 2127]. Considering the facts and circumstances of the case, I do not think that the revision petitioners deserve penal servitude by way of incarceration for their conviction. I am of the view that an appropriate fine and compensation to the injured will meet the ends of justice. Accordingly, for their conviction under section 341 IPC, each of the revision petitioners shall pay a fine of Rs.500/- (Rupees five hundred only) and on default to pay the fine, the defaulting accused shall suffer simple imprisonment for 15 days. For their conviction under section 323 IPC, each of the revision petitioners shall pay a fine of Rs.1,000/- (Rupees one thousand only) and on default to pay the fine, the defaulting accused shall suffer simple imprisonment for one month. For their conviction under section 324 IPC, each of the revision petitioners shall pay a

fine of Rs.5,000/- (Rupees five thousand only) and on default to pay the fine, the defaulting accused shall suffer simple imprisonment for two months. The fine amount shall be deposited before the trial court within 45 days from today. Out of the fine amount as and when deposited, a sum of Rs.7,500/- (Rupees seven thousand and five hundred only) shall be paid to PW1, the injured, by way of compensation under section 357(3) Cr.P.C. The first petitioner who is stated to be in custody since 10.10.07 shall be released from prison forthwith unless his continued detention is found necessary in connection with any other case against him.

In the result, this revision is disposed of confirming the conviction but modifying the sentence as above.

(V. RAMKUMAR, JUDGE)

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